

**Inter-Agency Agreement on the Lower Boise River  
Effluent Trading Demonstration Project:**  
Statement of Understanding and Responsibilities  
April 21, 2000

**OBJECTIVE**

The purpose of this document is to provide an overview of the signatory Agencies' (hereafter referred to as "the Agencies") responsibilities established as part of the Lower Boise River effluent trading demonstration project (hereafter referred to as "the project"). As the project moves towards full implementation, some agency responsibilities will change, but this agreement will confirm that the Agencies understand the nature of their specific roles in the project and agree to work together in a cooperative manner to implement the objectives of the project. The Agencies also agree to meet on a periodic basis or as often as needed by the issues arising from the project, to review the status of the project, to assess the progress of each agency in meeting its responsibilities, to address any issues arising from the failure of any of the Agencies to meet its responsibilities, and to consider and decide on any proposed changes to those responsibilities.

**BACKGROUND**

This agreement has been developed because of the recognition by the U.S. Environmental Protection Agency, the Idaho Division of Environmental Quality, the Soil Conservation Commission, the Ada Soil & Water Conservation District, the Canyon Soil Conservation District, the Natural Resources Conservation Service, the U.S. Bureau of Reclamation, and the Southwest Idaho Resource Conservation & Development Council for the need to formalize an ongoing effort to develop a voluntary, market-based approach to implement the Lower Boise River Total Maximum Daily Load (hereafter referred to as "the TMDL") for phosphorous. The goal of the Agencies is to implement the TMDL in an environmentally beneficial and cost-effective manner that will achieve significant water quality improvement in the affected watersheds. In addition, the stakeholders in the Lower Boise River Watershed support effluent trading as an implementation strategy for the Lower Boise River phosphorous TMDL.

This agreement will build on the current cooperative relationships between the Agencies in the implementation of water quality improvement projects, but identify what in particular is needed from each agency to support the implementation of the effluent trading program in the Lower Boise River Watershed, as outlined in the document entitled *The Lower Boise River Watershed Effluent Trading Demonstration Project: Stakeholder Recommendations for a Trading Framework*, which will be provided by the Idaho Division of Environmental Quality's contractor Ross & Associates by the end of June 2000.

## **AGREEMENT**

The signatory parties to this Agreement are acknowledging that the successful implementation of the Lower Boise River Effluent Trading Demonstration Project depends on the fulfillment of the particular roles and responsibilities of each agency, as well as the commitment of all of the Agencies to work together to resolve any issues and problems as they arise during the Project's implementation. The nature of the particular roles and responsibilities of each agency in the implementation of the Lower Boise River Effluent Trading Demonstration Project is summarized as follows:

### ***Summary of Agency Roles:***

#### **U.S. Environmental Protection Agency** (hereafter referred to as "EPA")

- C EPA will provide program oversight through the drafting and issuance of NPDES permits, review and approval of the state trading requirements document, review of the BMP list and periodic audits of NPDES permitted facilities. In addition, EPA will develop a Memorandum of Understanding with the Idaho Division of Environmental Quality for the purposes of establishing roles and responsibilities for the audit of NPDES permitted facilities and with the Soil Conservation Commission for their role in the on-site review of the BMPs that generated credits used by those facilities.

#### **Division of Environmental Quality** (hereafter referred to as "DEQ")

- C DEQ will provide ongoing program support by developing the Lower Boise River, Lower Boise River tributaries, Snake River-Hells Canyon TMDLs, preparing and maintaining the state effluent trading requirements document, providing technical support for ratios and review of the BMP list and participating in program audits and reviews. In addition, DEQ will develop a Memorandum of Understanding with EPA for the purposes of establishing roles and responsibilities for the audit of NPDES permitted facilities and with the Soil Conservation Commission for their role in the on-site review of the BMPs that generated credits used by those facilities.

#### **Soil Conservation Commission** (hereafter referred to as "SCC")

- C The SCC will provide ongoing program support by providing technical expertise for development and maintenance of the BMP list, and providing technical support to agricultural nonpoint source participants for BMP design, installation and maintenance. In addition, SCC will develop a Memorandum of Understanding with EPA and DEQ for the purposes of defining the SCC's role in the on-site review of the BMPs that generated credits used by NPDES-permitted facilities, as part of the NPDES audit program administered EPA and DEQ.

**Ada Soil & Water Conservation District** (hereafter referred to as “Ada SWCD”)

- C The Ada SWCD will provide ongoing program support by reviewing all conservation plans developed for the purpose of establishing phosphorus credits for the trading program and, where necessary and funding is available, provide technical support to agricultural nonpoint source participants for BMP design, installation and maintenance. The Ada SWCD will also provide guidance in the development and maintenance of the BMP list as a member of the BMP Technical Committee.

**Canyon Soil Conservation District** (hereafter referred to as “Canyon SCD”)

- C The Canyon SCD will provide ongoing program support by reviewing all conservation plans developed for the purpose of establishing phosphorus credits for the trading program and, where necessary and funding is available, provide technical support to agricultural nonpoint source participants for BMP design, installation and maintenance. The Canyon SCD will also provide guidance in development and maintenance of the BMP list as a member of the BMP Technical Committee.

**Natural Resources Conservation Service** (hereafter referred to as “NRCS”)

- C The NRCS will provide ongoing program support by providing technical expertise for development and maintenance of the BMP list, and providing technical support to agricultural nonpoint source participants for BMP design, installation and maintenance.

**Bureau of Reclamation** (hereafter referred to as “USBR”)

- C As the operator of Arrowrock and Anderson Ranch dams, and Lucky Peak dam in coordination with the Corps of Engineers to provide flood control, and water for hydropower generation, irrigation, recreation, and fish and wildlife in the Federal Boise Project, and as the builder of the New York canal, Lake Lowell, and many drains from the Boise Project, USBR is committed to ensuring that water resources affected by the operation of USBR facilities meets water quality standards. Consequently, USBR will provide technical assistance, such as water resources related planning, evaluation, and modeling; engineering design; monitoring; and water quality analysis as well as participating in construction (Congressional authorization required) on a cooperative, cost-sharing basis with others.

**Idaho Clean Water Cooperative**

- C The Idaho Clean Water Cooperative will develop and administer the project’s trade tracking system and support the effluent trading market as desired by its members. The Association is expected to be incorporated by the end of 2000.

**SW Idaho Resource Conservation & Development Council** (hereafter referred to as “SWIDRCD Council”)

- C The SWIDRCD Council will support development of the Idaho Clean Water Cooperative that will be established to develop and administer the project’s trade tracking system, providing fund-raising and administrative support until the Idaho Clean Water Cooperative is incorporated and functioning.

## **MEMBERSHIP, MEETINGS AND REPORTS OF THE AGENCIES**

The Agencies may choose to no longer participate in the Agreement and to no longer attend its annual meetings by notifying each agency by letter at least 30 days prior to the annual meeting scheduled by DEQ. In addition, a new member agency may be added to this Agreement by an amendment voted on by the Agencies.

The Agencies agree to meet once a year to assess the status of implementing the Lower Boise River Effluent Trading Demonstration Project, to hear from each Agency how it is fulfilling its assigned role and responsibilities, and to identify, discuss and resolve any issues arising in the fulfillment of their roles and responsibilities.

Prior to the annual meeting, DEQ will prepare and distribute to the Agencies an annual status report on the implementation progress of the project and its component work products. The report will also highlight any developments or issues needing discussion at the meeting.

In the spirit of this informal agreement, it is intended that any decision called for at a meeting of the Agencies can be made by consensus. The Agencies may choose to develop another decision making process, if necessary.

The Idaho Division of Environmental Quality will assume the leadership role of calling for and making the necessary arrangements for the periodic meetings of the Agencies, to take notes at the meetings and distribute the notes to the Agencies, and to lead the implementation of any follow-up actions the Agencies agree to take as a group.

A member requesting a meeting of the Agencies, in addition to those held annually, may submit its request to DEQ, and DEQ will schedule the meeting as soon as it is feasible. In addition, the Agencies may vote to decide if the annual meeting schedule should be changed to meet more frequently or less frequently.

## **RESPONSIBILITIES**

The particular roles of each agency are identified below. The schedule for the completion of each of the Agencies’ responsibilities will be developed in cooperation with each agency, and tracked by DEQ, as part of its responsibility for implementing the TMDL.

## **EPA responsibilities:**

### ***Program Management***

- C EPA will prepare NPDES permits that include language that authorizes phosphorous trading in accordance with the design elements agreed to through the stakeholder process and consistent with the requirements of the Clean Water Act.
- C EPA will fulfill its regulatory responsibilities in providing general oversight and consideration of approval of the Lower Boise River's Total Maximum Daily Load (TMDL) upon submittal by DEQ, as well as offer technical assistance to DEQ in the development of the TMDL. The degree of oversight and technical assistance provided by EPA will be determined as part of an on-going process EPA and DEQ are currently engaged in that determines the priorities and resources available for completing TMDLs in Idaho.
- C EPA, along with the NRCS, SCC and DEQ, will participate in any workgroup established by the BMP Technical Committee to develop the BMP list.

### ***BMP List***

In its current role as a member of the BMP Technical Committee, and along with DEQ, NRCS, and the SCC, in any workgroup established to develop the BMP list, EPA will:

- C Help identify appropriate practices for the BMP list.
- C Review the approved methods for estimating pre-treatment loads for agricultural land uses (surface irrigated crops, rangeland, pasture, feedlots, etc).
- C Help establish and review the design, construction, maintenance and monitoring requirements for measured BMPs.
- C Help establish and review the design, construction and maintenance requirements, the equation for calculating reductions, the period of time that a credit is generated and monitoring requirements for calculated BMPs.
- C Help identify and review sources of uncertainty for each equation calculating reductions.
- C Add BMPs to the list on an ongoing basis as needed, and propose changes to requirements, calculations, etc., as new information is developed.
- C Represent EPA's interests in effluent trading on the BMP Technical Committee.

Along with NRCS, SCC, DEQ, and other agencies and interests involved in the development of the BMP list, ensure the BMPs added to the list and the processes to establish phosphorous reduction credits upon the operation of those BMPs are scientifically based and in accordance with the Agricultural Pollution Abatement Plan and the NRCS standards, specifications, and criteria.

### ***Program Audit/NPDES Permit Inspections***

- C EPA will develop a Memorandum of Understanding with the Idaho Division of Environmental Quality for the purposes of establishing roles and responsibilities for the audit of NPDES permitted facilities and with the Soil Conservation Commission for their role in the on-site review of the BMPs that generated credits used by those facilities.

### **DEQ responsibilities:**

#### ***Project Management***

- C DEQ will draft and conduct a public review and comment process for the state effluent trading requirements document.
- C DEQ, along with EPA, NRCS, and SCC will participate in any workgroup established by the BMP Technical Committee to develop the BMP list.
- C DEQ will prepare and submit the Lower Boise River TMDL to EPA for its final review and approval. The degree of oversight and technical assistance provided by EPA will be determined as part of an on-going process EPA and DEQ are currently engaged in that determines the priorities and resources available for completing TMDLs in Idaho.
- C DEQ will oversee the Idaho Clean Water Cooperative's development of the trade tracking system and periodically perform audits of the trade tracking system. DEQ will establish a trade tracking system if the Idaho Clean Water Cooperative fails to do so.
- C DEQ will respond to stakeholders in other watersheds who may want to develop trading systems.

#### ***Ratios***

- C DEQ will review river location ratios every five years to determine if flow or pollutant conditions have changed enough to trigger a recalculation of the river location ratios. If conditions have changed to the extent they exceed the level identified as the trigger in the river location ratios document (which has been set as a variance of 30% or more on any one river location ratio occurring in two consecutive years, indicating a trend and a permanent change in the flow of the river), DEQ will recalculate the river location ratios and incorporate them into the state effluent trading requirements document following a public review and comment process, and a notification of the revision will be distributed to all market participants.
- C DEQ will consult with the SCC every five years to determine if there is any need to adjust or modify the drainage delivery ratios and site location factors, and incorporate any recommended changes into the state trading requirements document following a public

review and comment process, and a notification of the revision will be distributed to all market participants.

### ***BMP List***

- C In its current role as a member of the BMP Technical Committee, along with EPA, SCC, and NRCS, and in any workgroup established to develop the BMP list, DEQ will review and comment on BMP list materials prepared by the SCC to ensure BMP design, maintenance and monitoring or calculations appropriately target phosphorus reductions.
- C Along with NRCS, SCC, EPA, and other agencies and interests involved in the development of the BMP list, ensure the BMPs added to the list and the processes to establish phosphorous reduction credits upon the operation of those BMPs are scientifically based and in accordance with the Agricultural Pollution Abatement Plan and the NRCS standards, specifications, and criteria.
- C Publish the BMP list in the state effluent trading requirements document, with public notice and comment.
- C Conduct a public review and comment process for new BMPs, and add them to the BMP list, as they are recommended by the BMP Technical Committee.

### ***Program Audit/NPDES Permit Inspections***

- C DEQ will develop a Memorandum of Understanding with EPA for the purposes of establishing roles and responsibilities for the audit of NPDES permitted facilities and with the Soil Conservation Commission for their role in the on-site review of the BMPs that generated credits used by those facilities.
- C DEQ will conduct a periodic audit of the trade tracking database.

### **Soil Conservation Commission responsibilities:**

#### ***Program Management***

- C Chair the BMP Technical Committee and identify the appropriate BMP List committee members to carry out the responsibilities of developing the initial BMP List and facilitating the further addition of BMPs and refinements of calculating phosphorous reduction credits.
- C Along with NRCS, Ada SWCD, and Canyon SCD, the SCC will provide technical resources for development of conservation plans for individual landowners and project plans for parties developing watershed scale projects and seeking cost share funds.

### ***BMP List***

In its current role as a member of the BMP Technical Committee, and in any workgroup established to develop the BMP list, along with EPA, DEQ, and NRCS, the SCC will:

- C Identify appropriate practices for the BMP list.
- C Develop the approved methods for estimating pre-treatment loads for agricultural land uses (surface irrigated crops, rangeland, pasture, feedlots, etc).
- C Establish design, construction, maintenance and monitoring requirements for measured BMPs.
- C Establish design, construction and maintenance requirements, the equation for calculating reductions, the period of time during which a credit is generated, and operation and maintenance inspections requirements for calculated BMPs.
- C Identify sources of uncertainty for each equation calculating reductions.
- C Add BMPs to the list on an ongoing basis as needed, and propose changes to requirements, calculations, etc. as new information is developed.

Along with NRCS, DEQ, EPA, and other agencies and interests involved in the development of the BMP list, ensure the BMPs added to the list and the processes to establish phosphorous reduction credits upon the operation of those BMPs are scientifically based and in accordance with the Agricultural Pollution Abatement Plan and the NRCS standards, specifications, and criteria.

### ***Program Audit/NPDES Permit Inspections***

- C The SCC will develop a Memorandum of Understanding with EPA and DEQ for the purposes of defining the SCC's role in the on-site review of the BMPs that generated credits used by NPDES-permitted facilities, as part of the NPDES audit program administered by EPA and DEQ.

### **Ada SWCD responsibilities:**

#### ***Program Management***

- C Along with NRCS and SCC, the Ada SWCD will provide technical resources where there exists a need and funding is available for development of conservation plans for individual landowners and BMP plans for parties developing watershed scale projects and seeking cost share funds.

#### ***Conservation Plan Development and Approval***

- C Approve all farm-scale conservation plans developed by NRCS, SCC, or other appropriate



technical agency or entity for the purpose of establishing nonpoint source phosphorus credits.

- C Where necessary, and funding is available, seek and obtain additional technical assistance to develop conservation plans, BMP component design, and installation, operation and maintenance certification.

### ***BMP List***

Along with EPA, DEQ, SCC, and NRCS, the Ada SWCD will:

- C Identify appropriate practices for the BMP list.
- C Add BMPs to the list on an ongoing basis as needed, and propose changes to requirements, calculations, etc. as new information is developed.
- C Serve on the BMP Technical Committee, and in any workgroup established to develop the BMP list, to review and recommend new BMPs proposed for trading.

Along with NRCS, SCC, EPA, DEQ, and other agencies and interests involved in the development of the BMP list, ensure the BMPs added to the list and the processes to establish phosphorous reduction credits upon the operation of those BMPs are scientifically based and in accordance with the Agricultural Pollution Abatement Plan and the NRCS standards, specifications, and criteria.

### **Canyon SCD responsibilities:**

#### ***Program Management***

- C Along with NRCS and SCC, the Canyon SCD will provide technical resources where there exists a need and funding is available for development of conservation plans for individual landowners and project plans for parties developing watershed scale projects and seeking cost share funds.

#### ***Conservation Plan Development and Approval***

- C Approve all farm-scale conservation plans developed by NRCS, SCC, or other appropriate technical agency or entity for the purpose of establishing nonpoint source phosphorus credits.
- C Where necessary, and funding is available, seek and obtain additional technical assistance to develop conservation plans, BMP component design, and installation, operation and maintenance certification.

### ***BMP List***

Along with EPA, DEQ, SCC, and NRCS, and in any workgroup established to develop the BMP list, the Canyon SCD will:

- C Identify appropriate practices for the BMP list.
- C Add BMPs to the list on an ongoing basis as needed, and propose changes to requirements, calculations, etc as new information is developed.
- C Serve on the BMP Technical Committee to review and recommend new BMPs proposed for trading.

Along with NRCS, SCC, EPA, DEQ, and other agencies and interests involved in the development of the BMP list, ensure the BMPs added to the list and the processes to establish phosphorous reduction credits upon the operation of those BMPs are scientifically based and in accordance with the Agricultural Pollution Abatement Plan and the NRCS standards, specifications, and criteria.

### **NRCS responsibilities:**

#### ***Program Management***

- C Along with SCC, Ada SWCD, and Canyon SCD, the NRCS will provide technical resources for development of conservation plans for individual landowners and project plans for parties developing watershed scale projects and seeking cost share funds.

### ***BMP List***

In its current role as a member of the BMP Technical Committee, along with EPA, DEQ, and SCC, and in any workgroup established to develop the BMP list, the NRCS will:

- C Identify appropriate practices for the BMP list.
- C Develop the approved methods for estimating pre-treatment loads for agricultural land uses (surface irrigated crops, rangeland, pasture, feedlots, etc).
- C Establish design, construction, maintenance and monitoring requirements for measured BMPs.
- C Establish design, construction and maintenance requirements, the equation for calculating reductions, the period of time during which a credit is generated and monitoring requirements for calculated BMPs.
- C Identify sources of uncertainty for each equation calculating reductions.
- C Add BMPs to the list on an ongoing basis as needed, and propose changes to requirements, calculations, etc. as new information is developed.

Along with NRCS, SCC, EPA, DEQ, and other agencies and interests involved in the development of the BMP list, ensure the BMPs added to the list and the processes to establish

phosphorous reduction credits upon the operation of those BMPs are scientifically based and in accordance with the Agricultural Pollution Abatement Plan and the NRCS standards, specifications, and criteria.

### **USBR responsibilities:**

#### ***BMP List***

USBR will continue its participation in any workgroup established to develop the BMP list, or support other groups and interests in developing the BMP list, and provide technical assistance as needed.

#### ***Program Management***

USBR will provide staff analysis on a cooperative, cost-sharing basis with others as needed for technical assistance, including planning, evaluation, and modeling; engineering design; monitoring; and water quality analysis.

### **Idaho Clean Water Cooperative**

- C The Idaho Clean Water Cooperative will develop and administer the project's trade tracking system and support the effluent trading market as desired by its members. The Idaho Clean Water Cooperative is expected to be incorporated by the end of 2000.

### **SWIDRCD Council responsibilities:**

#### ***Association Development & Support***

- C The SWIDRCD Council will support development of the Idaho Clean Water Cooperative that will be established to develop and administer the project's trade tracking system, providing fund-raising and administrative support until the Idaho Clean Water Cooperative is incorporated and functioning.

## **GENERAL PROVISIONS**

This agreement does not supercede any existing role, responsibility or authority previously established for each agency in the watershed. This agreement is also not intended to create any rights or trust responsibility enforceable in any cause of action by any party against the United States, its agencies, officers, or any other person.

It is mutually agreed that each party to this agreement intends to carry out all of its respective commitments and obligations under the terms of this agreement. However, each party to this agreement is subject to an appropriation or other authorization for funding in order to fulfill such commitments and obligations. Therefore, this agreement will be automatically terminated if such funding is not furnished or is otherwise not available to any party.

**Inter-Agency Agreement on the Lower Boise River  
Effluent Trading Demonstration Project:**  
Statement of Understanding and Responsibilities

**SIGNATORY PARTIES**

This agreement is approved upon the date of the last signature.

U.S. Environmental Protection Agency, Region 10  
Charles E. Findley, Deputy Regional Administrator

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Date

Idaho Division of Environmental Quality  
C. Stephen Allred, Administrator

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Date

Natural Resources Conservation Service  
Richard Sims, State Conservationist

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Date

Soil Conservation Commission  
Jerry Nicolescu, Administrator

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Date

Ada Soil and Water Conservation District  
Wayne Newbill, Chairman

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Date

Canyon Soil Conservation District  
Jim Truesdell, Chairman

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Date

U.S. Bureau of Reclamation, Snake River Area Office  
Jerrold Gregg, Area Manager

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Date

Southwest Idaho Resource Conservation  
and Development Council  
Joe Twitchell, Council President

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Date